

IN RE: PETITION FOR SPECIAL EXCEPTION
S. Side Powers Lane, 327' w/
of Rolling Road (1917 Powers
Lane) 1st District

BEFORE THE
DEPUTY ZONING
COMMISSIONER
OF BALTIMORE COUNTY
CASE #90-105-X

C.C. BALTIMORE ASSOCIATES,
Petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a Special Exception for a service garage, as more particularly described on Petitioner's Exhibit 1.

The Petitioner was represented by Robert A. Hoffman, Esquire, who appeared and testified. Also appearing on behalf of the Petitioner were Mickey Cornelius, a traffic engineer; George Lambros, an engineer; and Wayne C. Meadows and John C. Strayhorn, representatives of Goodyear Tire & Rubber Company. Benjamin C. Cummings, Jr. a representative of Circuit City Stores, Inc. the ground Lessee of the subject property and former owner, was unable to attend due to the inclement weather, but sent a letter via telecopier which was accepted into the record. There were no protestants.

The Petitioner's attorney proffered that Circuit City (then owner of the property) had, after obtaining the proper building permits, constructed a Goodyear Tire and Auto Center to Goodyear's specifications. However, when Goodyear proceeded to request an occupancy permit, the Zoning Office instructed them

that a special exception was required for a service garage in the BL zone pursuant to Section 230.13 BCZR.

Mr. Hoffman further proffered that parcel A would accommodate a limited service, tune-up type facility specializing in tire service, oil changes, lubrication, brakes, etc. He stated that the facility would perform no body or fender type work, painting services, nor would the parking lot accommodate disabled vehicles or vehicles in need of repair overnight. He further proffered that the facility would generate a maximum of approximately 40 cars per day.

Finally, Mr. Hoffman proffered that Mr. Lambros and Mr. Cornelius, as well as the representatives of Goodyear would testify as to compliance with the standards of Section 502.1 BCZR.

The Petitioner had the burden of producing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in the Section 502.1. In fact, the Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest. The facts and circumstances of the use proposed by the Petitioner show that the proposed use at the particular location described by Petitioner's Exhibit 1 would not have any adverse impact above and beyond that inherently associated with such a Special Exception use irrespective of its location within the zone.

Schultz v. Pritts, 432A.2d 1319 (1981).

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way inconsistent with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of property, and public hearing held, and it appearing that by reason of the requirements of Section 502.1 having been met and the health, safety and general welfare of the community not being adversely affected, the special exception should be granted.

Therefore, It is Ordered by the Deputy Zoning Commissioner of Baltimore County, this 19th day of October, 1989, that the Petition for Special Exception for a service garage be and is hereby GRANTED, from and after the date of this Order, subject, however, the following restrictions:

1. The Petitioner may apply for his occupancy permit and be GRANTED same upon receipt of this order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as a 30 day Appellate Process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. There shall be no body work performed on vehicles on the premises.

3. The hours of operation shall be as follows: Monday thru Friday 7 a.m. to 9 p.m.; Saturday 7 a.m. to 7 p.m.; and Sunday 9 a.m. to 5 p.m.
4. No vehicles shall be parked overnight and no vehicle may be stored on the premises outside of the service bays.
5. Disabled vehicles shall only be stored in the service bays.

MICROFILMED

A. Nastarowicz
Ann Nastarowicz,
Deputy Zoning Commissioner

ORDER RECEIVED FOR FILING

Date 10/19/89
By *John C. Strayhorn*

MICROFILMED

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Date 10/19/89
By *John C. Strayhorn*

PETITION FOR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 90-105-X

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for SERVICE GARAGE.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:	Legal Owner(s):
(Type or Print Name)	(Type or Print Name)
Signature	Signature
Address	Address
City and State	City and State
Attorney for Petitioner:	Attorney for Petitioner:
John B. Howard, Esquire	John B. Howard, Esquire
(Type or Print Name)	(Type or Print Name)
Signature	Signature
Address	Address
City and State	City and State
Attorney's Telephone No.:	Attorney's Telephone No.:

ORDERED By The Zoning Commissioner of Baltimore County, this 22 day of September, 1989, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 22 day of September, 1989 at 2 o'clock P.M.

J. Robert Haines
Zoning Commissioner of Baltimore County

B.C.O. No. 1

(over)

MICROFILMED

Paul Lee P.E.

Paul Lee Engineering, Inc.
308 W. Pennsylvania Ave.
Towson, Maryland 21204
301-221-5344

1917 POWERS LANE
FIRST ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND

Beginning for the same at a point located on the south side of Powers Lane, said point also located N 70°50'55" W 212 feet, more or less, from the center of Rolling Road, thence leaving said south side of Powers Lane

- (1) S 20°26'00" W 197.25 feet
- (2) N 76°58'37" W 136.91 feet
- (3) S 13°33'13" W 139.07 feet
- (4) N 76°28'16" W 272.14 feet
- (5) N 15°26'41" E 22.18 feet
- (6) N 19°38'19" W 123.45 feet
- (7) N 71°46'19" W 117.00 feet
- (8) N 18°13'41" E 50.25 feet
- (9) N 71°46'19" W 170.00 feet and
- (10) N 18°13'41" E 212.93 feet to the south side of Powers Lane, thence binding on the south side of Powers Lane
- (11) S 70°50'55" E 767.78 feet to the point of beginning. Containing 4.9134 acres of land, more or less.



Engineers - Surveyors - Site Planners 5/3/89 Sheet 1

CIRCUIT CITY-WILLOW LAWN TEL: 804-287-6792

Sec 22.89 13:00 No.013 P.02

Circuit City Stores, Inc.

1506 Willow Lawn Drive
Richmond, VA 23230
804-287-6881

Benjamin B. Cummings, Jr.
Assistant Vice President
Real Estate

September 22, 1989
VIA TELECOPIER

Baltimore County Zoning Commissioner
Office of Planning and Zoning
Towson, MD 21204

Re: Special Exception
Case No. 90-105X

Dear Sir:

I regret that due to high winds and tornado warnings here in Virginia which have caused cancellation of airline service today to Baltimore, I am unable to personally appear at today's hearing on the above matter.

My statement, as Assistant Vice-President in charge of Real Estate for Circuit City Stores, Inc., as to this matter is as follows:

In 1987, Circuit City acquired in excess of 5 acres of land on Powers Lane to construct a retail Circuit City Superstore. That same year a partial rezoning of this property was secured on our behalf for this purpose. As the property was slightly larger than required for solely our use, as we often do, we developed an additional 6400 square foot building shell for other retail use. In late 1987, I negotiated a lease of this space between Circuit City and the Goodyear Tire and Rubber Company. Plans were drawn by Goodyear in early 1988 for Circuit City to construct a "turn-key" store for a standard Goodyear automotive center.

These plans were submitted by Douglas Nichols, our Construction Manager, to the Department of Permits and Licenses on August 1, 1988 and building permits were issued (permit numbers 104695 and 103737). Please see attached applications, permits, plan review data sheets and cash receipt slip. The plans (sections of which are attached hereto and an original set of which I am sending today to our attorneys by Federal Express to be submitted to you if necessary) clearly showed that the building was to contain a service garage area.

In good faith, Circuit City constructed the Goodyear facility in accordance with the plans and permits, and we were

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

90-105-X

District 1st Date of Posting 8-28-89
Posted for: Special Ex. Option
Petitioner: C.C. Baltimore Associates
Location of property: S. side of Powers Lane, 327' E. West of
the S.R. of Rolling Road
Location of Sign: South side of Powers Lane in front
of subject property
Remarks: See attached Date of return: 9-1-89
Number of Signs: 1

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
<i>Robert Hoffman</i>	<u>210 Allegany Ave</u>
<i>George Lambros</i>	<u>208 W. Pennsylvania Ave</u>
<i>Robert Moberlock</i>	<u>Wm. F. KIRWIN, INC.</u>
<i>Wayne C. Meadows</i>	<u>20 E. SUSQUEHANNA AVE.</u>
<i>Mickey Cornelius</i>	<u>GOODYEAR COLUMBIA MD</u>
<i>John C. Strayhorn</i>	<u>9805 CLARKSON RD.</u>
	<u>414 E. JOPPA RD. TOWSON</u>
	<u>7425 Hollins Ferry Rd. Baltimore</u>

MICROFILMED

GOODYEAR

WAYNE MEADOWS
REGIONAL DEALER
DEVELOPMENT COUNSELOR
THE GOODYEAR TIRE & RUBBER COMPANY
1425 ROLLING FERRY ROAD
BALTIMORE, MARYLAND 21227
(410) 536-0044



Maryland Department of Transportation
State Highway Administration

Richard H. Trainer
Secretary
Hal Kassoff
Administrator

June 30, 1989

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Attn: Mr. James Dyer

Re: Baltimore County
C.C. Baltimore Associates
Zoning Meeting of 6-27-89
N/S Baltimore National
Pike (Route 40-W)
327' West of Rolling Rd.
(Item #552)

Dear Mr. Haines:

After reviewing the submittal of a special exception for a service garage, we find the plan acceptable.

If you have any questions, please contact Larry Brocato at 333-1350.

Very truly yours,

Creston J. Mills, Jr.
Creston J. Mills, Jr., Chief
Engineering Access Permits
Division

LB:maw

cc: Paul Lee Engineering, Inc.
Mr. J. Ogle

My telephone number is (301) 333-1350 (Fax Number 333-1041)

Teletypewriter for Impaired Hearing or Speech
363-7555 Baltimore Metro - 585-0451 D.C. Metro - 1-800-482-5082 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21203-0717

BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL
PROTECTION AND RESOURCE MANAGEMENT

7/1/89
Date

Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Zoning Item # 552, Zoning Advisory Committee Meeting of June 27, 1989

Property Owner: C.C. Baltimore Associates
Location: 327 Powers Ln, 327' West of Rolling Rd. District: 1
Water Supply: metro Sewage Disposal: metro

COMMENTS ARE AS FOLLOWS:

- () Prior to approval of a Building Permit for construction, renovation and/or installation of equipment for any existing or proposed food service facility, complete plans and specifications must be submitted to the Plans Review Section, Bureau of Regional Community Services, for final review and approval.
- () Prior to new installation(s) of fuel burning equipment, the owner shall contact the Bureau of Air Quality Management, 887-3775, to obtain requirements for such installation(s) before work begins.
- () A permit to construct from the Bureau of Quality Management is required for such items as spray paint processes, underground gasoline storage tank(s) (5,000 gallons or more) and any other equipment or process which exhausts into the atmosphere.
- () A permit to construct from the Bureau of Air Quality Management is required for any chabroiler generation which has a total cooking surface area of five (5) square feet or more.
- () Prior to approval of a Building Permit Application for renovations to existing or construction of new health care facilities, complete plans and specifications of the building, food service area and type of equipment to be used for the food service operation must be submitted to the Plans Review and Approval Section, Division of Engineering and Maintenance, State Department of Health and Mental Hygiene for review and approval.
- () Prior to any new construction or substantial alteration of public swimming pool, wading pool, bathhouse, saunas, whirlpools, hot tubs, water and sewerage facilities or other appurtenances pertaining to health and safety; two (2) copies of plans and specifications must be submitted to the Baltimore County Department of Environmental Protection and Resource Management for review and approval. For more complete information, contact the Water Quality Monitoring Section, Bureau of Regional Community Services, 687-6500 x 315.
- () Prior to approval for a nursery school, owner or applicant must comply with all Baltimore County regulations. For more complete information, contact the Division of Maternal and Child Health.
- () If lubrication work and oil changes are performed at this location, the method providing for the elimination of waste oil must be in accordance with the State Department of the Environment.
- () Prior to razing of existing structure(s), petitioner must contact the Division of Waste Management at 887-3745, regarding removal and/or disposal of potentially hazardous materials and solid wastes. Petitioner must contact the Bureau of Air Quality Management regarding removal of asbestos, 887-3775.
- () Any abandoned underground storage tanks containing gasoline, waste oil, solvents, etc., must have the contents removed by a licensed hauler and tank removed from the property or properly backfilled. Prior to removal or abandonment, owner must contact the Division of Waste Management at 887-3745.
- () Soil percolation tests, have been conducted.
() The results are valid until
() Soil percolation test results have expired. Petitioner should contact the Division of Water and Sewer to determine whether additional tests are required.
- () Where water wells are to be used as a source of water supply, a well meeting the minimum Baltimore County Standards must be drilled.
- () In accordance with Section 13-117 of the Baltimore County Code, the water well yield test
() shall be valid until
() is not acceptable and must be retested. This must be accomplished prior to conveyance of property and approval of Building Permit Applications.
- () Prior to occupancy approval, the potability of the water supply must be verified by collection of bacteriological and chemical water samples.
- () If submission of plans to the County Review Group is required, a Hydrogeological Study and an Environmental Effects Report must be submitted. For more information contact the Division of Environmental Management at 887-3980.
- () In order to subdivide this property, the owner or developer will be required to comply with the subdivision regulations of the State of Maryland and Baltimore County. If there are any questions regarding the subdivision process, please contact the Land Development Section at 887-2762.
- () Others: *Drainage from interior service bays is to be directed to sanitary sewer via oil separator*

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C.D. Zolner
BUREAU OF WATER QUALITY AND RESOURCE
MANAGEMENT

Baltimore County
Fire Department
800 York Road
Towson, Maryland 21204-2596
(301) 887-4500

Paul H. Reincke
Chief

JUNE 26, 1989



Dennis F. Rasmussen
County Executive

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: C.C. BALTIMORE ASSOCIATES

Location: S SIDE POWERS LANE, 327' (= OR -)
WEST CENTERLINE OF ROLLING ROAD

Item No.: 55 Zoning Agenda: JUNE 27, 1989

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy.

REVIEWER: *Paul Lee Kelly 6-26-89* Noted and Approved *Capt. Ken Brady*
Planning Group Fire Prevention Bureau
Special Inspection Division

JK/KEK

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JUN 27 1989

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 405
Towson, Maryland 21204
(301) 887-5554

July 24, 1989

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, MD 21204

RECEIVED
AUG 3 1989

ZONING OFFICE

Dear Mr. Haines:

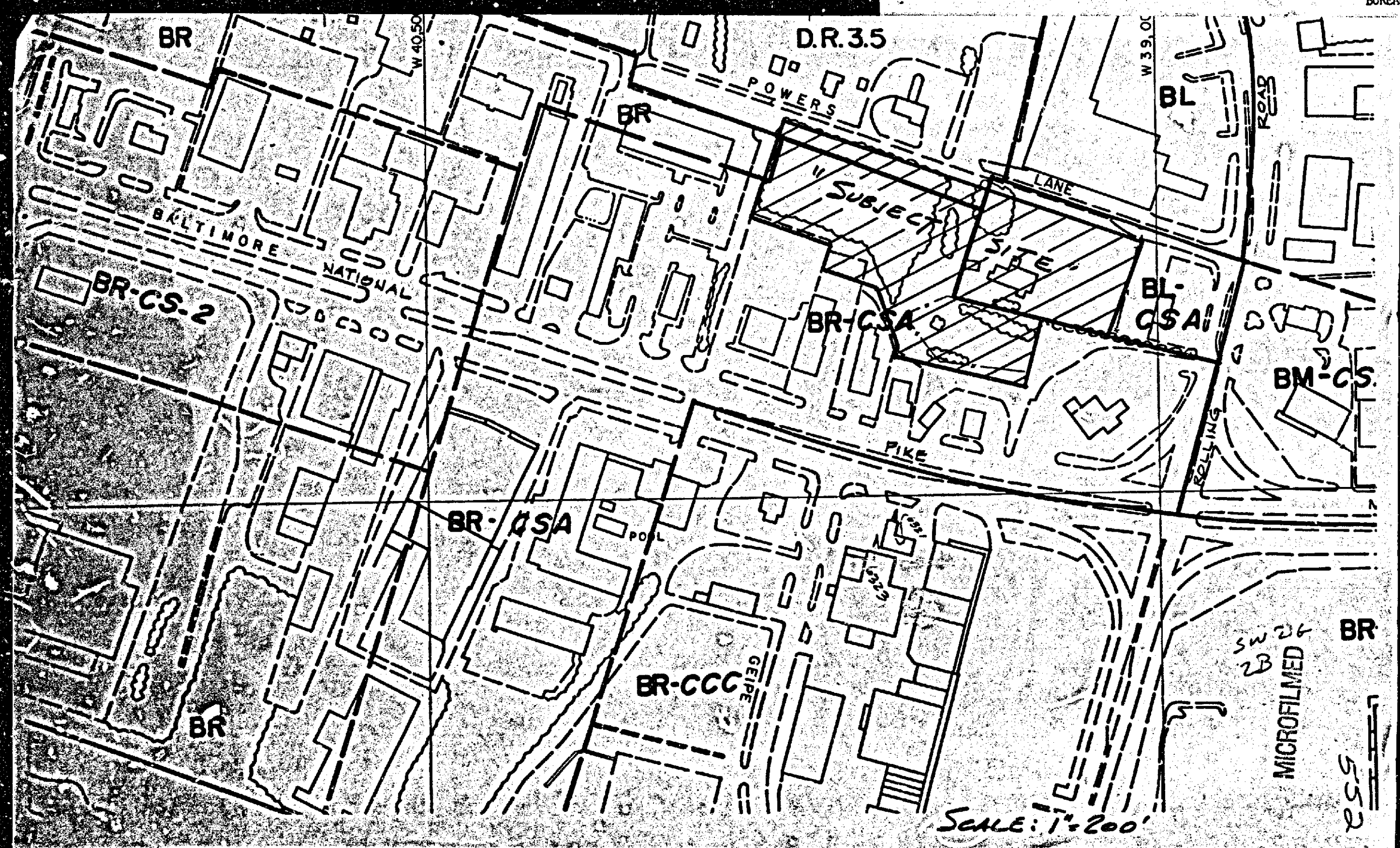
The Bureau of Traffic Engineering has no comments for items number 525, 526, 527, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 557, 558 and 559.

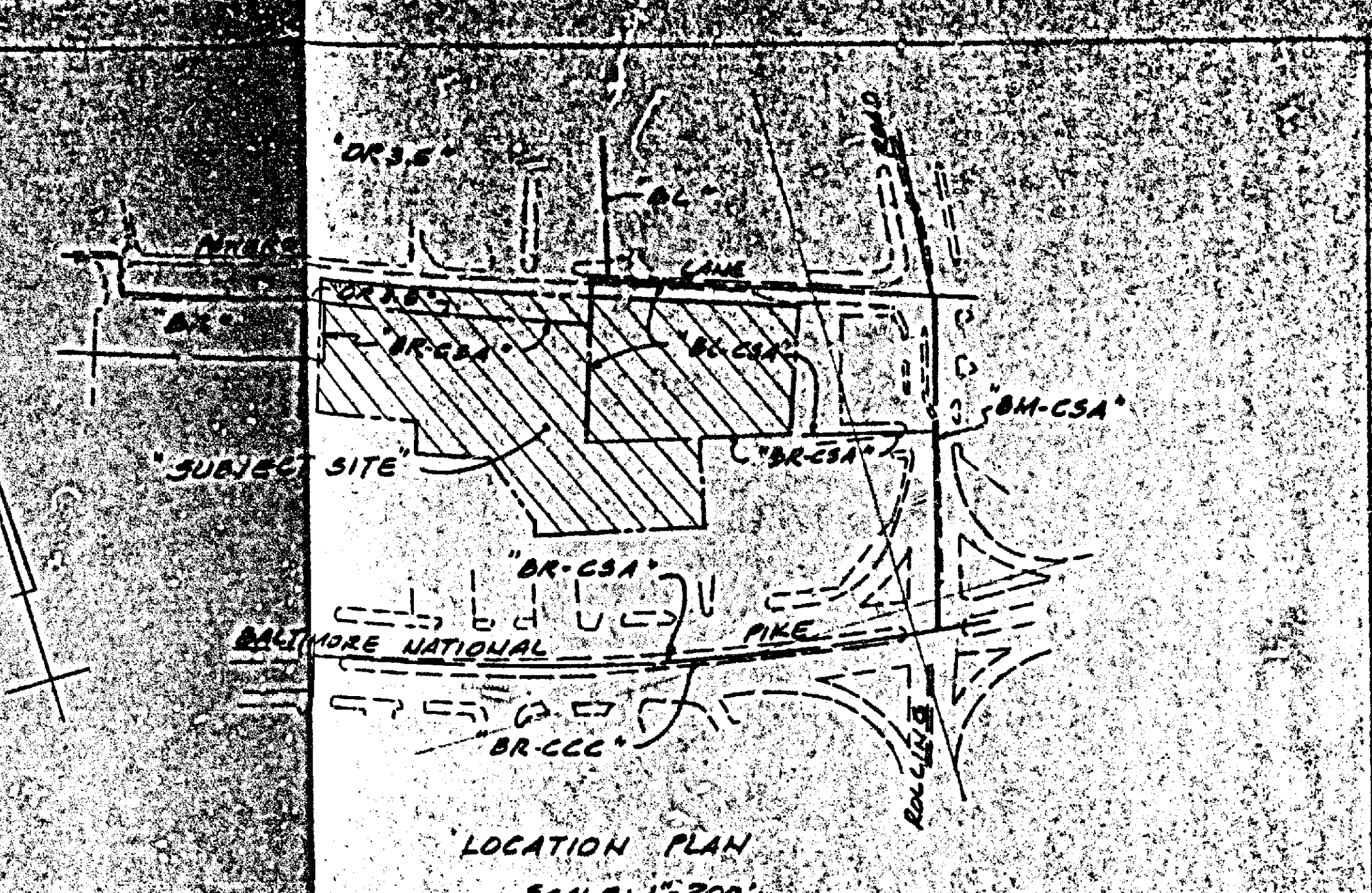
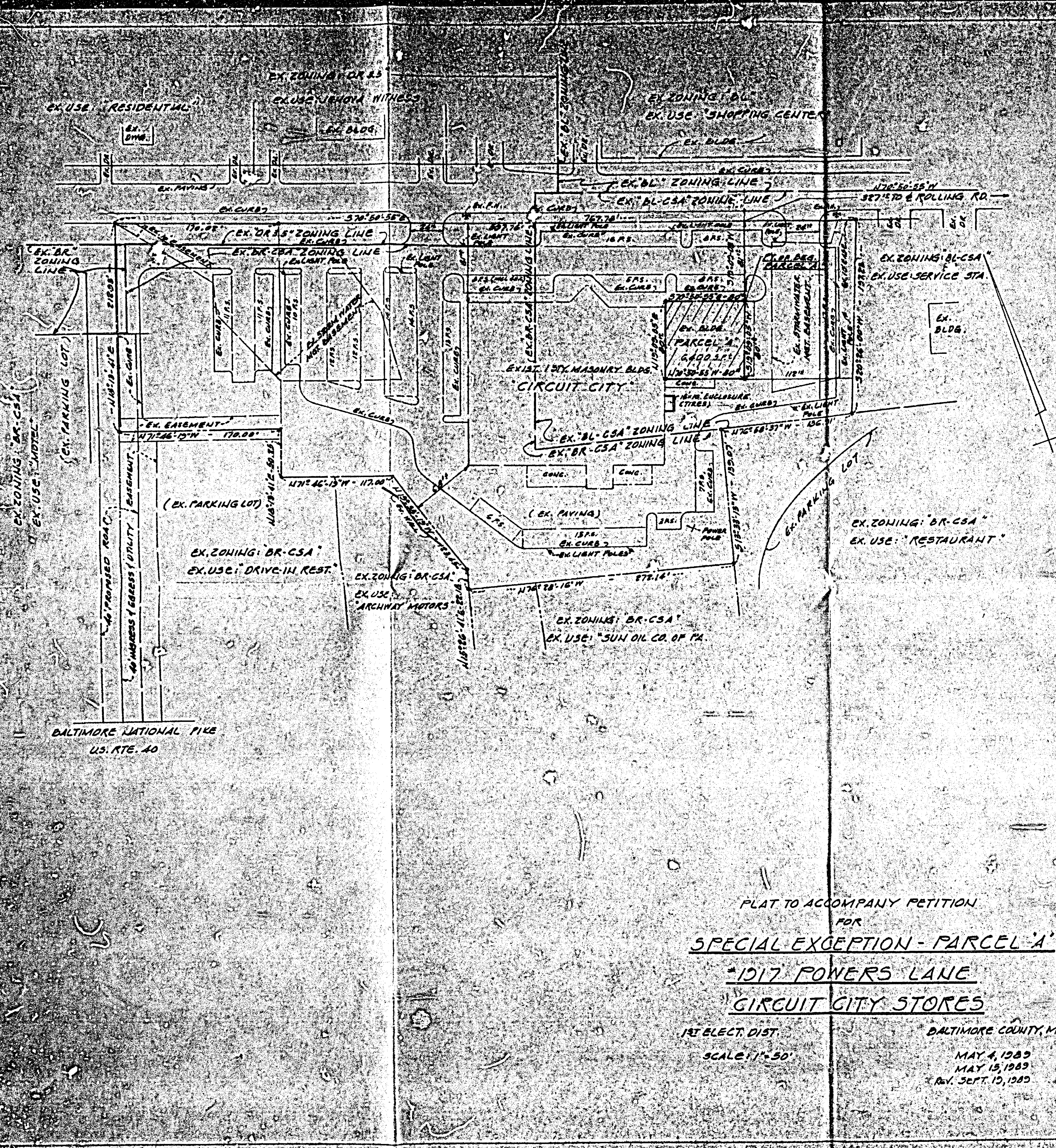
Very truly yours,

Michael S. Planigan
Michael S. Planigan
Traffic Engineer Associate II

MSF/lab

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GENERAL NOTES

1. AREA OF PROPERTY - TOTAL 40134 S.F., PARCEL A - 6400 S.F.
2. EXISTING ZONING OF PROPERTY - DL-CSA, BR-CSA, BR-DR 3.5"
3. EXISTING USE OF PROPERTY - "CIRCUIT CITY" RETAIL STORE
4. PROPOSED ZONING OF PROPERTY - DL-CSA, BR-DR 3.5" & BR-CSA w/ SPECIAL EXCEPTION
5. PROPOSED USE OF PROPERTY - "CIRCUIT CITY" RETAIL STORE
6. REQUIRED OFF STREET PARKING:
 - A. RETAIL STORE (CIRCUIT CITY) - 31,377 S.F. @ 511/1000 - 31,377/5 - 139.83 RS
 - WAREHOUSE AREA - 3,583 S.F. @ 113 S.F. - 604/13 - 2.5 RS
 - B. PARCEL A - SERVICE GARAGE (BAY) - 6,400 S.F. @ 25/1000 - 6,400/25 - 256 RS
 - TOTAL PARKING SPACES - 184 RS
7. PARKING SPACES SHOWN - 130 RS + 8 BAYS - 138 RS
8. PETITIONER REQUESTING A SPECIAL EXCEPTION TO PERMIT A SERVICE GARAGE (GOOD YEAR TIRES) IN A "DL-CSA" ZONE
9. ALL PARTS MATERIALS TO BE STORED IN AN ENCLOSED AREA
10. STORAGE & DISPLAY OF MATERIALS, VEHICLES & EQUIPMENT WILL NOT BE MORE THAN 5' IN FRONT OF THE REQUIRED BUILDING LINE
11. ALL PROPOSED IMPROVEMENTS ARE WITHIN THE "DL-CSA" ZONE
12. NO DAMAGED VEHICLES TO BE STORED ON SITE
13. PUBLIC UTILITIES SERVING SITE

PLAT TO ACCOMPANY PETITION
FOR
SPECIAL EXCEPTION - PARCEL 'A'
1017 POWERS LANE
CIRCUIT CITY STORES

1ST ELECT. DIST. BALTIMORE COUNTY, MD
SCALE: 1" = 50'
MAY 4, 1989
MAY 13, 1989
REV. SEPT. 10, 1989

Paul Lee
G.L. 6-1-1

PAUL LEE, ENGINEERING, INC.
304 W. PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204





BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
PHOTOGRAPHIC MAP

PREPARED BY AIR PHOTOGRAPHICS, INC.
MARTINSBURG, W.V. 25401

SCALE
1" = 200' ±
DATE
OF
PHOTOGRAPHY
JANUARY
1986

LOCATION
CATONSVILLE

SHEET
SW
2-G
MICROFILMED

*Peterson's
Exhibit 2*